



**U.S. Citizenship
and Immigration
Services**

**Non-Precedent Decision of the
Administrative Appeals Office**

In Re: 31860554

Date: JUL. 10, 2024

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a salsa dancer, choreographer and instructor, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not establish that she had received a one-time achievement (a major, internationally recognized award) or that she satisfied at least three of the initial evidentiary criteria, as required for the requested classification. The matter is now before us on appeal pursuant to 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the [noncitizen] has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the [noncitizen] seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the [noncitizen's] entry into the United States will substantially benefit prospectively the United States.

The term “extraordinary ability” refers only to those individuals in “that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If the petitioner does not submit this evidence, then they must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010). (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner states that she is a world renown dancer, choreographer and instructor of Salsa Caleña, a style of salsa dancing considered an important part of the cultural heritage of [REDACTED] Colombia. In a personal statement, the Petitioner states that she began salsa dancing at age 5, taught by her father. In 2000, the Petitioner, along with her father and sister, founded [REDACTED] a dance school in [REDACTED] Colombia. Under the Petitioner’s leadership as choreographer and artistic director, [REDACTED] [REDACTED] has performed throughout the world, in national and international competitions and dance exhibitions. In addition, the Petitioner has choreographed and performed with other dance companies world-wide. She seeks to expand her dance studio in the United States and continue her work as a choreographer and dance instructor in salsa dancing.

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). The Petitioner initially claimed that she met seven of these criteria:

- (i), Receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
- (ii), Membership in associations that require outstanding achievements;
- (iii), Published materials in major trade or professional publications or other major media;
- (iv), Participating as a judge of the work of others in the field;
- (v), Original contributions of major significance;
- (vii), Display of work in the field at artistic exhibitions or showcases; and
- (viii), Performing in leading or critical roles for organizations or establishments with a distinguished reputation.

The Director issued a request for evidence (RFE), notifying the Petitioner that the evidence in the record demonstrated that she met the criterion at 8 C.F.R. § 204.5(h)(3)(vii), having displayed her work at artistic exhibitions. However, the Director informed the Petitioner that the evidence was not sufficient to establish that she met any of the other claimed criteria. The Director allowed the Petitioner an opportunity to submit additional evidence in attempt to demonstrate that she satisfied at least two more of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x).

In response to the RFE, the Petitioner submitted additional evidence asserting that she meets the following criteria:

- (i), Lesser nationally or internationally recognized awards or prizes;
- (ii), Memberships in associations that require outstanding achievements; and
- (iii), Published materials in major trade or professional publications or other major media.

In denying the petition, the Director determined that the Petitioner demonstrated that she met two of the ten criteria. Specifically, the Director concluded that the Petitioner met the criteria at 8 C.F.R. § 204.5(h)(3)(iv) and (vii), having participated as a judge of the work of others in the field, and having displayed her work at artistic exhibitions or showcases. While we agree with the Director that the Petitioner has met these two criteria, we conclude that the record does not demonstrate that the Petitioner meets at least one additional criterion to meet the threshold for a final merits determination on whether she can establish that she is an individual of extraordinary ability in the field of salsa dancing, choreography and instruction.

A. Evidentiary Criteria

On appeal, the Petitioner maintains that she satisfies at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). Specifically, she maintains that she meets the criteria at 8 C.F.R. § 204.5(h)(3)(i), (ii), and (iii), for lesser nationally or internationally recognized awards, memberships in associations that require outstanding achievements, and published materials in major trade or professional publications or other major media. For the reasons discussed below, we find that the Petitioner has not established that she meets at least three categories of evidence.

Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. 8 C.F.R. § 204.5(h)(3)(i).

The Petitioner asserts that she meets this criterion based on awards given to [redacted] in the field of dance. The record includes certificates, award announcements and photographs of trophies from various competitions, including the Festival [redacted] the World [redacted] and the World [redacted]. The Director concluded that the Petitioner did not establish that the awards demonstrated national or international recognition for excellence.

The record does not include information about the Festival [redacted] or the World [redacted] [redacted] describing the significance of the awards, the number of awardees or any limitations on competitors. Although the Petitioner describes these events as “one of the largest salsa events in the

world,” and “one of the most important in the world,” the record does not include evidence to support these claims. The Petitioner must support assertions with relevant, probative, and credible evidence. *See Matter of Chawathe*, 25 I&N Dec. at 376. While we acknowledge that the record includes information about the World [redacted] including the scoring system and rules of competition, this evidence does not describe the awarding entity or the significance of the award. We therefore agree with the Director that the evidence does not establish that these awards qualify as lesser nationally or internationally recognized awards.

Even if we were to consider these awards as international awards for excellence, which we do not, the evidence demonstrates that these awards were given to the team, [redacted] and do not list the individual members of the team. The record does not demonstrate that the awards have been granted to the Petitioner in recognition for her achievements as a salsa dancer, choreographer and instructor. Although the evidence demonstrates that the Petitioner was a member of the team, the awards demonstrate recognition of the team as a whole, rather than an award for individual achievement by any specific member.¹

On appeal, the Petitioner states that she has provided evidence of international awards in her field and submits copies of evidence already in the record. She also submits a letter from the “producer general” of the World [redacted]. The letter states that [redacted] under the artistic and choreographic direction of [the Petitioner] was consecrated as champion of the World [redacted] 2012 dance tournament in the category [redacted]. While the letter identifies the Petitioner as member of the award-winning team, as noted above, the Petitioner has not established that the World [redacted] qualifies as an internationally recognized award.

For these reasons, the Petitioner has not submitted documentation that satisfies this criterion.

Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields. 8 C.F.R. § 204.5(h)(3)(ii).

To meet the standards of this criterion, an individual must submit evidence that 1) they are a member of an association; 2) the association is in their field of extraordinary ability; 3) the association requires outstanding achievements as a condition for membership; and 4) that the outstanding achievements are judged by national or international experts in their fields.

In support of this criterion the Petitioner asserts that she is a member of the [redacted] Association [redacted] and the [redacted] Association. The Director determined that the evidence did not demonstrate that these associations require outstanding achievements and was not sufficient to establish that the Petitioner satisfies this criterion.

¹ We acknowledge that the record includes an award from the National Congress titled [redacted] 2019” and awarded to the “director of [redacted]. However, the name listed on the award does not match name of the Petitioner, and nothing in the record identifies the award recipient as the same individual as the Petitioner. Further, the record does not include information about the awarding entity or the competition. Nor does it describe the significance of the award, the number of awardees or any limitations on competitors. *See 6 USCIS Policy Manual F.2(B)(1)*, <https://www.uscis.gov/policy-manual>.

On appeal, the Petitioner again states that she is a member of [REDACTED] an organization focused on “preserving, safeguarding, and recognizing the cultural significance embodied by the Social Dancer.” She submits a letter from the legal representative of [REDACTED] identifying the Petitioner as a member and describing the criteria for membership as follows:

1. The new member must be an arts foundation or non-profit organization.
2. The new member must have a board of directors made up of a minimum committee of 10 people.
3. The new member must have legal statutes certified by an attorney.
4. The new member must be registered with the chamber of commerce as an arts foundation or non-profit organization.
5. The new member must delegate a representative who will attend the different meetings or activities required by the board of directors of [REDACTED]

This evidence does not describe the requirements for membership as outstanding achievements in the field. Nor does the evidence demonstrate that achievements of members are judged by national or international experts in salsa dancing, choreography or instruction.

With the initial filing the Petitioner stated that [REDACTED] Association is an association of dancers in [REDACTED] created to “manage the quality of life of salsa dancers.” However, the record does not include any information about this organization to support the Petitioner’s statement. The Petitioner did not discuss her membership in [REDACTED] Association in response to the RFE or on appeal.

For these reasons, the Petitioner has not submitted documentation that satisfies this criterion.

Published material about the alien in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation. 8 C.F.R. § 204.5(h)(3)(iii).

This criterion requires evidence showing published material about the individual and their work in the field of extraordinary ability. In addition, that material must include basic information such as its title, date and author, and must have been published in professional or major trade publications or other major media.

The record includes several articles on the topic of salsa dancing, some mentioning the Petitioner’s dance studio, [REDACTED] and some featuring the Petitioner. With the initial filing, the Petitioner also provided a list of the top 10 national and regional newspapers in [REDACTED] Colombia. In the RFE, the Director noted that articles listing the results from a competition did not meet the requirements for this criterion. The Director further noted that the material in the record did not clearly identify the name of the publication for each article and did not include information about the publication to establish that is a professional or major trade publication or other major media. She also noted that some articles did not appear to include a complete English translation.

In response to the RFE, the Petitioner did not provide additional evidence but disagreed with the Director. She stated, “Each of them includes the name of the media (magazine, website, etc.), date, and author of the published material. Additionally, they were accompanied by the proper English translation related to my work. As for the remaining content unrelated to me, I did not see the need to translate it.”

The Director determined that this criterion was not met because the publications are local or regional in nature. The Director again noted that some of the published material in the record did not include the title, date, and author.

On appeal, the Petitioner again disagrees and states, “I hold a differing opinion as all the evidence I submitted adheres to the stipulations of this criterion.” The Petitioner again references the list of top 10 national and regional newspapers in [] Colombia and submits copies of evidence already in the record.

Upon review of the record, we agree with the Director that many of the articles do not identify the name of the publication. Some evidence includes only a sentence or paragraph presumably clipped from a full article. Some evidence includes only photos with captions without referencing the article or identifying the publication.

Of the articles that do identify the publication, these do not meet the plain language of this criterion. One article, published in the newspaper El Pais in [] 2008, discusses the Petitioner and her sister and their salsa dancing achievements. However, the record does not include evidence to establish the circulation statistics for El Pais, or evidence of the intended audience for this publication to establish that it qualifies as major media or a major trade publication. An article, published [] 2016 in the magazine “15 Minutos,” features the Petitioner but does not discuss her achievements as a salsa dancer, choreographer or instructor. Rather, the article tells the story of how the Petitioner met her spouse. The record also includes articles about salsa dancing published in the newspaper “Zona Rosa,” but these articles do not mention the Petitioner specifically and no information is included about the publication to identify it as a professional or major trade publication or other major media. Other articles in the record announce competition winners, and, as the Director noted, do not satisfy the plain language requirements of this criterion.

For these reasons the Petitioner did not show that she satisfies this criterion.

Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field. 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy this criterion, a petitioner must establish that not only have they made original contributions, but that they have been of major significance in the field.² For example, a petitioner

² See 6 USCIS Policy Manual, *supra*.

may show that the contributions have been widely implemented throughout the field, have remarkably impacted or influenced the field, or have otherwise risen to a level of major significance in the field.

With the initial filing, in support of this criterion the Petitioner stated that her original contributions of major significance included her dance studio, [REDACTED] as well as bringing “the name of Colombia to the top in the different international Salsa championships.” She submitted business certificates demonstrating that she is on the board of directors of [REDACTED] as well as letters and certificates identifying [REDACTED] as an award-winning dance school and recognizing the Petitioner as director, choreographer and dancer.

The Director determined that the evidence in the record did not demonstrate the major significance of the Petitioner’s original contributions. In response to the RFE, the Petitioner did not address this criterion or submit additional evidence. The purpose of the RFE is to elicit further information that clarifies whether eligibility for the benefit sought has been established. 8 C.F.R. § 103.2(b)(8).

On appeal, the Petitioner submits her personal statement describing her dedication to her profession and the reputation of her dance school. She states that, in support of this criterion, she submits a letter from her father as general director of [REDACTED] and a “letter from the Mayor’s Office of [REDACTED]

The record demonstrates that the Petitioner is the artistic director and choreographer, as well as an instructor at the dance studio, [REDACTED] which she founded with her family. While the record includes articles and recommendation letters mentioning the Petitioner and her role with [REDACTED] the record does not describe the Petitioner’s original contribution through this organization. The letter from the general director of [REDACTED] the Petitioner’s father, verifies her role as “creator, founder, dancer, choreographer, instructor, and artistic director” with the school. Although the letter states that the Petitioner’s work “has been vital for the evolution, development and growth of our dance school,” the letter does not detail the nature or significance of her contributions to the field of salsa dancing, choreography and instruction as a whole. Similarly, the resolution from the mayor’s office “exalting the dance school” and recognizing the Petitioner and her family does not identify a contribution of major significance to the field of salsa dancing, choreography and instruction.

For these reasons, the Petitioner did not show that she satisfies this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation. 8 C.F.R. § 204.5(h)(3)(viii).

To qualify under this criterion, a petitioner must show that they played a leading or critical role for an organization or establishment, and that that organization or establishment has a distinguished reputation. When evaluating whether a role is leading, we look at whether the evidence establishes that the person is or was a leader within the organization, or a department or division thereof. A title, with appropriate matching duties, can help to establish that a role is or was leading. For a critical role, we look at whether the evidence establishes that the person has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities or those of a

division or department of the organization or establishment. 6 *USCIS Policy Manual* F.2(B)(1), <https://www.uscis.gov/policy-manual>.

To support that an organization has a distinguished reputation, the relative size or longevity of an organization is considered together with other relevant information, such as the scale of its customer base or relevant media coverage. “Merriam-Webster’s online dictionary defines ‘distinguished’ as ‘marked by eminence, distinction, or excellence’ or ‘befitting an eminent person.’” *Id.*

The Petitioner points to her roles in judging various salsa dancing festivals and competitions. The Director acknowledged that this demonstrated the Petitioner’s satisfaction of the criterion at 8 C.F.R. § 204.5(h)(3)(iv), participation as a judge of the work of others in the field. However, the Director determined that this criterion, leading or critical role, was not met because the evidence did not show that the Petitioner performed in a leading or critical role, that her contributions were of significant importance to the outcome of the organizations, or that the organizations have a distinguished reputation.

In response to the RFE, the Petitioner did not address this criterion or submit additional evidence. As noted above, the purpose of the RFE is to elicit further information that clarifies whether eligibility for the benefit sought has been established. 8 C.F.R. § 103.2(b)(8). The Petitioner also does not address or contest on appeal the Director’s conclusion that she does not meet this criterion. Accordingly, we deem these grounds to be waived. An issue not raised on appeal is waived. *See, e.g., Matter of O-R-E-*, 28 I&N Dec. 330, 336 n.5 (BIA 2021) (citing *Matter of R A-M-*, 25 I&N Dec. 657, 658 n.2 (BIA 2012)).

The Petitioner has not demonstrated that she satisfies at least three of the initial evidentiary criteria. Therefore, the Petitioner has not established eligibility for classification as an individual of extraordinary ability.

B. Summary

For the reasons discussed above, we agree with the Director that the Petitioner is not eligible because she has not submitted the required initial evidence of either a one-time achievement or documents that she meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)-(x). Thus, we need not fully address the totality of the materials in a final merits determination. *Kazarian*, 596 F.3d at 1119-20. Nevertheless, we have reviewed the record in the aggregate, and conclude that it does not support a finding that the Petitioner has established the level of expertise required for the classification sought.³

The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top. USCIS has long held that even athletes performing at the major league level do not automatically meet the “extraordinary ability” standard. *Matter of Price*, 20 I&N Dec. 953, 954 (Assoc. Comm’r 1994). Here, the Petitioner has not shown that the significance of her accomplishments in salsa dancing, choreography, or instruction is indicative of the required sustained national or international acclaim or that it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No.

³ This review included consideration of testimonial evidence that was not claimed to satisfy any particular regulatory criterion, such as letters of recommendation and letters of invitation to perform at dance and talent competitions.

101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate that the Petitioner has garnered national or international acclaim in the field, and she is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2).

III. CONCLUSION

The Petitioner has not shown that she qualifies for classification as an individual of extraordinary ability under section 203(b)(1)(A) of the Act. The appeal will be dismissed for the above stated reasons. In visa petition proceedings, it is the petitioner's burden to establish eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; *Matter of Skirball Cultural Ctr.*, 25 I&N Dec. 799, 806 (AAO 2012). Here, that burden has not been met.

ORDER: The appeal is dismissed.